

AUG - 7 2006

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JAMES M. F. HUGHES, JR.,  
Petitioner,

v.

WARDEN, WALLENS RIDGE  
STATE PRISON,  
Respondent.

Civil Action No. 7:06-cv-00451

MEMORANDUM OPINION

By: Hon. Jackson L. Kiser  
Senior United States District Judge

The petitioner, a Virginia inmate proceeding pro se, filed this action as a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, on July 26, 2006. However, court records indicate that the petitioner has previously filed a § 2254 petition concerning the same conviction, Hughes v. Warden of Sussex I State Prison, Civil Action No. 7:00CV00933. Thus, the petitioner's current petition is a subsequent one, falling under the provisions of the amendments to federal habeas statutes regarding subsequent or successive § 2254 petitions. See Title I, Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996). Pursuant to these amendments, this court may consider a second or successive § 2254 petition only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the petition meet certain criteria. See 28 U.S.C. § 2244(b). Because the petitioner has not submitted any evidence of such certification by the Court of Appeals, the court will dismiss the petition without prejudice as successive.

The Clerk is directed to send certified copies of this memorandum opinion and the accompanying order to the petitioner and counsel of record for the respondent.

ENTER: This 7<sup>th</sup> day of August, 2006.

*Jackson L. Kiser*  
Senior United States District Judge